

UNITED STATES COURT OF WESTERN PENNSYLVANIA  
FOR THE THIRD CIRCUITATIF BABAR MALIK #62539-037  
FCI LORETTO

FILED

APR 20 2020

CLERK U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIAMOTION FOR COMPASSIONATE RELEASE  
Pursuant to 18 USC 3582 (c)(1)(A)(i)

Petitioner-Appellant, Atif B. Malik, filing pro-se herein petitions

this Honorable Court to GRANT his request for Compassionate Release  
Pursuant to 18 USC 3582 (c)(1)(A)(i)

As a preliminary matter, Malik respectfully request this Honorable Court be mindful that pro-se pleadings are to be construed liberally. See *Fantone v. Latanie*, 780 F.3d 184 (3rd Cir, 2015); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (recognizing that pro-se pleadings... are to be construed liberally);

Accordingly the following request ensues.

JurisdictionMalik recognizes that this Honorable Court has jurisdiction  
in this matter

Malik sincerely apologizes to this Honorable Court that this Motion is not typed. Malik has been in lockdown for approximately one month with no access to typing room or law library.

Cares Act

Malik is humbly requesting Compassionate Release due to the COVID-19 Virus pandemic. In March 2020, President Trump signed "Cares ACT" Section 12003 (b)(2) Title 18 3224 (c)(2). On March 16, 2020, Attorney General Barr recognized the imminent threat of the spread of this lethal virus among inmates at Federal Prisons.

The BOP on Friday, April 10, 2020, listed criteria of factors to be used to determine which inmates qualify for Compassionate Release. The BOP listed 7 factors:

- 1) primary offense is non violent
- 2) inmate has no detainers
- 3) mental health care level is less than IV
- 4) Pattern score is minimum
- 5) BRAVO score is low or minimum
- 6) No incident reports in past 12 months
- 7) Complete 50% of sentence

As of April 13, 2020, the 50% completion requirement is no longer a factor to be considered.

Malik Qualifies for Compassionate Release under the Cares Act.

Malik's case is a white collar fraud case, Malik is a 50 year old.

Malik is a first-time non violent offender with zero criminal history. The BOP scores Malik at no risk for recidivism. Malik is considered a minimum security risk. Malik's conduct has been impeccable as he has tutored GED students and taught numerous courses through the education department.

Re-entry Plan for Malik

Malik does not pose a security risk to the community. Malik has already fulfilled the required 14 day quarantine. Malik is married to Megan and have a four year old Aleena and a eight year old Zain. Malik's family has visited him four times a month over the last two years. They live in a rural community in Mt. Airy, Maryland. Malik has a Bachelor of Science and an Medicine Doctorate (M.D.) and upon his release he can work from home as a consultant. Malik has run numerous companies and is self sufficient with numerous contacts that are willing to assist him get back on his feet. The BOP would save money to release Malik and would be able to pay taxes with his income. Further more he could help his family and especially Zain who has autism and had a difficult time with Malik's incarceration.

Malik is at Increased risk to COVID-19 Complications Due to his Medical History

According to CDC guidelines, Malik has the following conditions which put him at serious risk of developing life threatening severe acute respiratory syndrome (SARS) which requires a ventilator and has a very high mortality:

- 1) Heart attack (M-I) 2012 requiring cardiac stent at George Washington Hospital Center
- 2) Myocardial Blockage on left coronary artery - 99% requiring stent 2016 at Washington Hospital Center
- 3) Diabetes Mellitus Type II
- 4) Hypertension requiring 3 anti-hypertensives
- 5) Coronary Artery Disease
- 6) Cardiac Angina
- 7) Hypercholesterolemia
- 8) Hypertriglyceridemia

The FCI Loretto Health Department has Malik on the following medications:

- |                               |                        |
|-------------------------------|------------------------|
| 1) Clopidogrel 75mg           | 7) Metformin 500mg     |
| 2) Atorvastatin 80mg          | 8) Sertraline HCl 50mg |
| 3) Nitroglycerin 0.4mg        | 9) Aspirin 81mg        |
| 4) Telmisartan 40mg           | 10) Tamsulosin 0.4mg   |
| 5) Hydrochlorothiazide 12.5mg | 11) Omega 3 acid 1gram |
| 6) Nebivolol 20mg             |                        |

COVID-19 (SARS-COV2) is a respiratory virus that has an extremely high mortality up to 40% once an individual has been placed on a ventilator according to many health experts. CDC puts certain populations with comorbid conditions that include:

- 1) Hypertension
- 2) Diabetes Type II
- 3) Chronic Cardiovascular disease
- 4) Chronic Pulmonary disease
- 5) Chronic autoimmune conditions

Dr. Anthony Fauci, has reported that nursing homes and prisons are particular risk of high mortality from COVID-19 spread. Social distancing

of six feet is not possible in a six man room that is 80 sq feet where is communal bathrooms, shared TV rooms, where computers and phones act as fomites for the spread of the virus. Even with surgical masks, it has been reported that healthcare workers have contracted COVID-19 and some have died. COVID-19 is spread by normal speaking and unsymptomatic individual may spread this virus especially to at risk individuals.

While we continue to be in quarantine at FCI Loretto the staff may go home and into the community after each shift, potentiating the continued risk of COVID-19 spread for many months. In fact, Washington University COVID-19 model used by the White House shows mortality in the United States to exceed 60,000 by August 2020. Prisons in particular to at risk individuals pose a potential death sentence.

### Conclusion

Malik clearly meets the criteria set forth recognizing him "At Risk" of COVID-19 complications of severe pneumonia. Malik is a white collar case with zero chance of recidivism. He is non violent. Malik is highly educated and has experience running his own business. Malik's education, self motivation and network of support will allow him to quickly get on his feet and once again be a law abiding, tax paying productive part of society.

Malik will once again be able to help raise his young children with wife Megan.

Malik fears that the current sentence would become a death sentence and would especially afflict for his family and children. Being home with his family will allow Malik to lower his risk of contracting COVID-19 with lower risk to the prison system and once again work and be contributing member of his community.

Malik prays this honorable court GRANT his request for Compassionate Release or other relief found to be appropriate.

Respectfully



Atif Baber Malik  
62539-037

Affirmation of Atif Malik  
Pursuant to 28 U.S.C. Section 1746

I Atif Babar Malik, depose and swear that the following is true to the best of my knowledge, understanding, recollection and belief.

- 1) I am currently incarcerated at FCI Loretto
- 2) I applied in writing for compassionate Release due to passing of the "Cares Act"
- 3) I received a denial to my request on 4/3/20
- 4) I am a white collar case.
- 5) I pose no threat to my community upon release.
- 6) I am a non-violent and first-time offender.
- 7) I am considered "At Risk" due to my cardiovascular conditions.
- 8) I have submitted my re-entry plan upon my release.
- 9) My wife Megan who has been with me since 2007 could pick me up upon release
- 10) COVID-19 has been confirmed within the surrounding communities of FCI Loretto
- 11) I have filed taxes during my incarceration
- 12) I have had regular weekly family visits since my incarceration.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge this 15 day of April 2020

Loretto, Pennsylvania



Atif Malik 62539-037